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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/054,597	04/03/1998	JOACHIM POSEGGA	2345/39	2757

26646 7590 05/19/2004

KENYON & KENYON
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

ESCALANTE, OVIDIO

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 05/19/2004

27

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/054,597

Applicant(s)

POSEGGA, JOACHIM

Examiner

Ovidio Escalante

Art Unit

2645

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).

10. ☐ Other: _____

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Advisory Action

Regarding claims 1 and 10, Applicant contends that the Ahlin reference does not in any way identically describe or suggest an apparatus as claimed in claim 1, or a method as claimed in claim 10 since the Ahlin reference teaches that an application program is downloaded at a home terminal 2 which is in direct contrast to at least claim 1. The Examiner respectfully disagrees.

The Examiner does not believe that the cited areas of Ahlin that was relied upon by the Examiner is in contrast to claims 1 and 10, since claims 1 and 10 specifically claim that the “network server transmits the user interface program (examiner read this as the application program since it interfaces with the user) to the control and operating device (examiner read this as the computer 10) before the service is used.

Regarding claim 15, Applicant states that “[c]laim 15 provides that a user-side terminal is capable of being independent of a service; that is, a network-based service can be use[d] without requiring that the user-side terminal be specifically adjusted to that service to that service.”

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a user-side terminal is capable of being independent of a service; that is, a network-based service can be use[d] without requiring that the user-side terminal be specifically adjusted to that service to that service) are not recited in rejected claim 15. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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Applicant contends that Moss or Bergler do not teach or suggest means for removing the at least one user interface before the service is used.

While the Examiner agrees that Moss alone does not specifically teach of means for removing the at least one user interface, the Examiner believes that it would have been obvious in view of one of ordinary skill in the art and as evidenced by Bergler in which Bergler states that programs can be removed to preserve memory space. Therefore, the Examiner is maintaining the rejection to independent claim 15.